To Modernize Educational Broadband Infrastructure

Modernize the E-rate Program

- E-rate 2.0: A Realistic Roadmap to Universal High -Speed Connectivity -

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E-RATE: A WELL-DOCUMENTED SUCCESS STORY

 "Thousands of schools and libraries have received billions of dollars since the E-rate program began [fifteen] years ago. As a result, Internet access is nearly universal in the nation's schools and libraries. ... In addition, in-school use of the Internet and technology by students and teachers is growing rapidly."   *-- National Broadband Plan,* §11.3 (Modernizing Educational Broadband Infrastructure)

THE PROBLEM

The transformation of the groundbreaking E-rate program into an underfunded, Telecommunications-Internet Access-only support program will soon be complete, unless corrective action is taken quickly.

- **Skyrocketing Demand for Broadband and Internal Connections**
  "... inadequate connectivity speeds and infrastructure issues are frequently reported, and bandwidth demands are projected to rise dramatically over the next few years. Moreover, there is pent-up demand in schools and communities for access to more broadband content and tools. This demand has not been met in part because applicants require greater bandwidth to use these tools; ... many schools will need significant upgrades to meet projected broadband bandwidth demands in the future. ... The E-rate program needs to be updated and strengthened to ensure the rapid growth of online learning and data sharing in education are not limited by insufficient bandwidth." *-- National Broadband Plan,* §11.3

- **Very Soon, E-rate Funding for Internal Connections Will Disappear Completely**
  In FY 2012, schools and libraries requested $5.2 billion in E-rate support, more than double the size of the $2.33 billion fund. $2.4 billion of it was for Priority One (P1) services (telecommunications and Internet access). That amount alone exceeded the cap. With the addition of rollover funds and for other administrative reasons, sufficient funding likely will be available this year to cover all Priority One funding requests. Very limited funding for Priority Two (P2) services (internal connections and basic maintenance) may be available. The same might hold true for FY 2013, but the odds against it are higher. Assuming the demand for broadband and other P1 services continues unabated, and there is no reason to believe that it will not, *no funds will be available for P2 services by FY 2014*.

- **After That, E-rate Funding for Telecomm and Internet Access Will Begin to Disappear**
  The amount of funding available to cover P1 requests from every school and library, regardless of discount rate, will come up short for the first time in FY 2014 based on the current demand projectory. Consequently, the Commission will have to establish a P1 discount rate threshold, reduce all P1 requests proportionally, or find another way to address the shortfall.

- **The E-rate Program is Being Shortchanged**
  Except for relatively small adjustments for inflation, which did not begin until FY 2010, E-rate funding has not changed since 1997. In 1997, there was no historic data of demand for eligible services that the Commission could rely on to help it set the cap. The Commission had no choice, therefore, but to make an educated guess as to what that demand might be. The Commission guessed "$3.1 to $3.4 billion annually during an initial four-year deployment period and approximately $2.4 to $2.7 billion annually during subsequent years." *Report and Order* (1997), paras. 530-532. That estimate proved to be miles off the mark.

  The shortfall led to the P1-P2 priority service system and the much reviled and ineffective "2-in-5" rule. And thus began the E-rate program's slow and steady drift away from its statutory mission, namely, "a specific, predictable, and sufficient universal service support mechanism." *Report and Order*, para. 530.

  Since 1997, the fund has actually decreased in value rather substantially. By 2010, it had "fallen by about $650 million in inflation-adjusted dollars," the Commission reported in the *National Broadband Plan* (§11.3). This means that, today, the fund is actually worth only $1,688,786,577 – i.e., FY 2012 inflation adjusted cap of $2,338,786,577 minus the $650 million in purchasing power that the Commission says the fund lost between 1997 and 2010. Note that during this same time period, funding for the USF High Cost and Lifeline programs has more than doubled!

THE SOLUTION

Adopt Recommendation 11.16 of the Commission's National Broadband Plan:
"*The FCC should provide E-rate support for internal connections to more schools and libraries.*"

> *".... In the past 10 years, only the neediest schools and libraries have received funding for the internal connections necessary to utilize increased broadband capacity, and the vast majority of requests for internal connections have gone unfunded. ...*
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> *...The result is that the vast majority of schools and libraries, while receiving discounts to help pay for broadband services, do not receive funds for the internal infrastructure necessary to utilize increased broadband capacity. In order to ensure that schools and libraries have robust broadband connections and the capability to deliver that capacity to classrooms and computer rooms, the FCC should develop ways that Priority 2 funding can be made available to more E-rate applicants.*" (Emphasis added). http://www.broadband.gov/plan/11-education/#s11-3

HOW TO IMPLEMENT THE SOLUTION

1. **Increase the Annual E-rate Funding Cap.**

   Increase the annual funding cap to an amount that at least comes close to what the well-documented need for E-rate funding actually is.

2. **Close the "Blank Check" Loophole: Adopt the 2003 "Funding Ceiling" Recommendation of the Task Force on the Prevention of Waste, Fraud and Abuse.**

   Ten years ago, with the Commission's support, the Schools and Libraries Division of USAC convened a 14-member Task Force on the Prevention of Waste, Fraud and Abuse. Included on the Task Force were representatives from every E-rate stakeholder group. One of its principal recommendations was to impose a ceiling on the amount of funding that an applicant can request. In other words, every applicant should be required to operate within an annual funding budget:

   > *"A ceiling would limit those applications that appear to be seeking disproportionately large funding requests. It is believed that this, along with other Task Force recommendations, would help ensure that applicants are submitting the most cost-effective funding requests....*
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   > *Applicants would be advised that both their Priority One and Priority Two funding requests are subject to a ceiling and would have to decide how to make best use of their available funding....*
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   > *...the Task Force explored a handful of possible formula models for establishing this kind of ceiling. These models included formulas based on the number of students and/or library patrons, based on the number of sites, and a formula that would take the applicant's discount rate into consideration. ...*
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   > *...The Task Force acknowledges that any formula for setting a ceiling may ultimately curtail some funding requests. Nevertheless, it believes that as long as the E-rate funding pool is not large enough to meet the funding requests of all eligible applicants, the imposition of a properly constructed ceiling on funding requests would encourage applicants to create more cost-effective plans for ensuring access."*

THE SOLUTION FRAMEWORK

No public or private organization, none that we know of anyway, operates without a budget or receives a blank check every year to purchase as much as it wants. But that is exactly how the E-rate program operates. And that is what we (and the Task Force before us) believe has had a tendency to lead in far too many instances to inadequate planning, poor purchasing decisions, and waste.

Consistent with the Task Force's recommendation, we propose a solution framework that is "simple to administer and based upon numbers or statistics that would be readily available and grounded in a policy that is sound and logically defensible."

Our solution framework and the various proposals being discussed to inject badly needed funding into the E-rate program are neither mutually exclusive nor even slightly at odds. Badly needed additional funding from any source would easily "plug into" our proposed framework, resulting in increased annual budgets across the board.

This is what we propose:

(1) Do Not Alter the Current Discount Matrix or Eligible Services List or the Form 470, Form 471, PIA Review, or Payment Process.

(2) Eliminate Unlimited E-rate Budgets by Creating a Graduated Budget Matrix Based on Economic Need. Create a graduated budget matrix that provides equitable, per student and per patron (or other variable) funding amounts for schools and libraries at different discount levels. 90%-discount applicants would receive the highest per capita budget amounts and 20%-discount applicants the lowest.

(3) Tie Annual Budget Amounts to Geographic Location, Too. Develop the new budget calculation by taking into account a variety of factors, such as urban, rural, or remote rural location, and anything else that will help to foster the equitable distribution of a finite amount of funds.

(4) Guarantee an Adequate, Minimum Funding Amount to Every Applicant. Ensure that every applicant regardless of its size and location receives a meaningful, minimum amount of funding in its annual E-rate budget. Higher discount-rate and remote-rural applicants would receive proportionally higher minimum amounts, respectively, than lower discount rate and urban applicants.

(5) Permit applicants to allocate some or all of their annual budgets to any consortium application in which they wish to participate.

(6) Reset Budget Amounts Annually. Every year, well before the window application period opens, the Commission would set the per school student and per library patron (or other variable) budget amount for the next funding year.

(7) Make Funding Specific, Predictable, and Sufficient. Assure applicants that their E-rate budgets will remain relatively constant from one year to the next, subject only to fluctuations in the size of the populations they serve and any additional funding that might become available.

(8) Permit Applicants to Set Their Own Priorities. Permit applicants to allocate their annual E-rate budget *entirely as they see fit* among eligible services in *any* category and to *any* of the eligible buildings in their school districts and library systems -- regardless of what any particular site's discount rate may be – as was the Program's intent originally. Note: site specific services would continue to receive discounts at whatever the specific site's discount rate might be, 90%, 80%, 70% and so on. Thus money spent to buy eligible services for a 90% school will stretch an applicant's budget much farther than money spent to buy the same services for a 60% school. Note further: that is a decision that should be and, under this framework, would be made locally.

BENEFITS OF THE PROPOSED FRAMEWORK

Increased Accountability, Flexibility, and Predictability

1. Builds on successful aspects of current E-rate Program

2. Creates predictable and reliable annual funding for applicants

3. Encourages technology planning and prioritization

4. Enables applicants to set their own local priorities

5. Provides all applicants access to some support

6. Enables USAC to issue funding commitment decisions more quickly

7. Encourages accurate funding requests

8. Reduces waste and abuse

9. Eliminates need for the 2-in-5 rule

10. Reduces excessive and/or frivolous funding requests

11. Reduces or removes incentives to replace equipment before end of life or to gold plate networks

12. Eliminates incentive to game the P1/P2 system

13. Protects against "mega" funding requests

14. Sets a limit on waste/fraud/abuse potential per applicant

15. Accommodates future increase(s) to the fund without retooling the program

16. Works with all other changes being discussed in the E-rate community

17. Reduces or eliminates need for some proposed changes

18. Encourages applicant to file their application sooner

b. The Task Force recommends that the Commission consider imposing a ceiling on the amount of funding that an applicant can request.

A ceiling would limit those applications that appear to be seeking disproportionately large funding requests. It is believed that this, along with other Task Force recommendations, would help ensure that applicants are submitting the most cost-effective funding requests. Further, a formula that produces a modest reduction in such requests is likely to promote greater competition in the program as a whole by expanding the base of applicants that could qualify for Priority Two support.

Applicants would be advised that both their Priority One and Priority Two funding requests are subject to a ceiling and would have to decide how to make best use of their available funding. By endorsing this concept, the Task Force is *not* supporting the idea of turning the E-rate program into an entitlement program, or allocating the available funds among all participating applicants.

In the brief amount of time available, the Task Force explored a handful of possible formula models for establishing this kind of ceiling. These models included formulas based on the number of students and/or library patrons, based on the number of sites, and a formula that would take the applicant's discount rate into consideration. The Task Force also tested models in which the ceiling would apply to an applicant's combined funding requests for Priority One and Priority Two services, and separate ceilings for the two kinds of services. While reaching no conclusion on which approach was better, the Task Force believes that the ceiling concept should be applied to both service priorities.

A ceiling must also be implemented in such a way that it does not favor particular kinds of applicants. For instance, some models might tend to favor large applicants, while others might tend to favor small applicants. The Task Force did not have time to fully test all of these ideas and recommends that the Commission test multiple models before choosing a particular one. The Task Force is happy to share with the Commission the work it has already done in this area.

The Task Force does agree that any formula ultimately adopted by the Commission should be simple for the SLD to administer and easy for applicants to understand. Any formula should be based upon data that are readily available and grounded in a policy that is sound and logically defensible. The Task Force believes it should be possible to integrate a formula into the Form 471, based on information that applicants are already required to submit. Ideally, this would not impose additional work on applicants. It will be important to ensure that a ceiling formula addresses the question of how to manage the requests of schools and libraries that may also be members of consortia.

The Task Force acknowledges that any formula for setting a ceiling may ultimately curtail some funding requests. Nevertheless, it believes that as long as the E-rate funding pool is not large enough to meet the funding requests of all eligible applicants, the imposition of a properly constructed ceiling on funding requests would encourage applicants to create more cost-effective plans for ensuring access.